

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

FILED

03/14/2022

ARSUS, LLC,

Plaintiff,

v.

TESLA, INC.,

Defendant.

CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK
CIVIL ACTION No. 6:22-cv-00276

COMPLAINT FOR INFRINGEMENT
OF U. S. PATENT 11,077,877

JURY TRIAL DEMANDED

Plaintiff Arsus, LLC, for its complaint, complains against Defendant Tesla, Inc., formerly known as Tesla Motors, Inc., demands trial by jury, and alleges that:

I. THE PARTIES

1. Plaintiff Arsus, LLC ("Arsus" or "Plaintiff") is a Utah limited liability company with its principal place of business at 350 West 2000, South Perry, Utah 84302.

2. Defendant Tesla, Inc. ("Defendant") is a corporation organized and existing under the laws of Delaware, with a regular and established place of business within this judicial district.

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction of such action under 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in this district under 28 U.S.C. sections 1381(b) and 1400(b).

5. On August 3, 2021, United States Patent No. 11,077,877 ("the '877 Patent"), entitled *Rollover Prevention Apparatus*, was duly and legally issued by the United States Patent and Trademark Office. A copy of the '877 patent is attached to this complaint as Exhibit A.

6. Within this district, Defendant has sold and offered for sale Tesla vehicles (the “accused vehicles”) which directly infringe the ’877 patent’s claims 1 to 21 (the “asserted claims”), and is continuing to sell and offer for sale accused vehicles, such as Tesla vehicle models S, 3, X, and Y, equipped with Tesla’s so-called Auto-pilot system, within this district. See the claim charts attached to this Complaint as Exhibit B, incorporated herein by reference.

7. The asserted claims of the ’877 patent call for a rollover prevention apparatus. All asserted claims are apparatus claims. The accused Autopilot-equipped Tesla vehicles are steered by the Tesla Autopilot system (Autopilot) alone, when Autopilot is turned on (i.e., is in the *active mode*). Moreover, so long as Autopilot is in the active mode, Autopilot alone steers the Tesla vehicle.

8. In 2014, Elon Musk, Tesla’s CEO/President/Controlling Shareholder said that, with Autopilot deployed: “We [meaning Tesla vehicles] can basically go between San Francisco and Seattle without the driver doing anything.” See Exhibit B to this complaint.

9. A person in an accused Tesla vehicle that is being steered by Autopilot (i.e. Autopilot being in the active mode), can manually turn the steering wheel of the Tesla vehicle, but such act of manual steering turns Autopilot off (i.e., transitions Autopilot into an *inactive mode*). Turning off Autopilot, by a person manually turning the steering wheel, returns the Tesla vehicle to being steered manually, instead of being steered by Autopilot.

10. Turning the Tesla Autopilot off (i.e., transitioning Autopilot from the active mode to an inactive mode), as by the driver (or other source) turning the steering wheel, to steer the Tesla manually, does not prevent an accused Tesla vehicles from infringing any asserted claim, when Autopilot is in active mode.

11. No asserted claim calls for an apparatus that precludes the transitioning of Autopilot - whether by human operator or by other means, whether by the turning of a steering wheel or by other means - from the active mode to an inactive mode. No asserted claim calls for an

apparatus that precludes the manual steering of a vehicle.

12. Tesla's publicity for the accused vehicles indicates that the accused vehicles can steer themselves with no driver in the vehicles. See Exhibit C to this complaint for Tesla publicity images showing accused Tesla vehicles steering themselves, with no driver in the vehicle.

13. Tesla has issued statements that Tesla vehicles, equipped with Autopilot, can steer a Tesla vehicle, including for trips hundreds of miles long, with no human driver in the car, meaning that Autopilot can and does steer a Tesla vehicle, with no driver, or human of any kind, such as a passenger, in the Tesla vehicle. See Exhibit B to this complaint.

14. Autopilot alone steers manned, and unmanned, accused Tesla vehicles, when and so long as Autopilot system is in the active mode. So long as Autopilot is in the active mode, Autopilot prevents the accused Tesla vehicles, whether manned or unmanned, from steering beyond a threshold of rollover, thereby directly infringing all of the asserted claims.

15. Plaintiff ARUS is the assignee of all right, title and interest in the '877 patent, including all rights to enforce and prosecute actions for Tesla's infringement of this patent.

16. Plaintiff ARSUS has been damaged as a result of Defendant's infringing conduct. Defendant Tesla is liable to Plaintiff ARSUS for damages in an amount that adequately compensates Plaintiff ARSUS for this damage.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, and Local Rule 38(a), demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff ARSUS requests that the Court find in ARSUS' favor, against Defendant Tesla, and that the Court grant Plaintiff ARSUS the following relief:

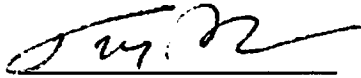
- a. Judgment that one or more claims of Plaintiff ARSUS' '877 patent have been infringed by Defendant Tesla's accused vehicles;

- b. Judgment that Defendant Tesla account for and pay to Plaintiff ARSUS all damages to and costs incurred by Plaintiff because of Defendant's infringing activities, and an accounting of all infringements and damages not presented at trial;
- c. That Plaintiff ARSUS be granted pre-judgment and post-judgment interest on the damages arising from Defendant's infringing activities; and
- d. That Plaintiff ARSUS be granted such other and further relief as the Court may deem just and proper under the circumstances.

March 9, 2022

Patrick Bright (SBN 68709)
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be filed)
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